

INTERNAL REVENUE SERVICE

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CC:ITA:1

[REDACTED]
CONEX-120034-02

[REDACTED]

Dear [REDACTED]:

This letter is in reply to your e-mail of [REDACTED], to [REDACTED] about deducting health club membership fees as a medical expense. You asked whether legislation can be introduced to allow a deduction for health club membership dues paid for the treatment of obesity. [REDACTED] asked us to respond directly. We are sending a copy of this letter to [REDACTED] for his consideration in determining whether legislation is warranted.

Deductions for Medical Care Under § 213 of the Code

This section generally allows taxpayers to deduct expenses paid during the taxable year, not compensated for by insurance or otherwise, for medical care of the taxpayer, his spouse, or a dependent, if the expenses exceed 7.5 percent of adjusted gross income. The code generally defines "medical care" as including the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body. The Income Tax Regulations generally add that deductions for expenditures for medical care under § 213 will be confined strictly to expenses incurred primarily for the prevention or alleviation of a physical or mental defect or illness. However, an expenditure which is merely beneficial to the general health of an individual, such as an expenditure for a vacation, is not an expenditure for medical care.

You attached a news article about recent administrative guidance the Internal Revenue Service issued. [Rev. Rul. 2002-19, 2002-16 I.R.B. 1 (April 2, 2002)]. In this guidance, we agreed with the medical community's recognition of obesity as a disease and stated that uncompensated amounts an individual pays to participate in a "weight-loss program" as treatment for a specific disease diagnosed by a physician, including obesity, are deductible as medical expenses.

Limits on Deductions Under § 274(a)(3)

No deduction is allowed for amounts paid or incurred for membership in any club organized for business, pleasure, recreation, or other social purpose. [Section 274(a)(3)].

Although existing law generally provides that uncompensated amounts paid for participation in a "weight-loss program" as treatment for a specific disease diagnosed by a physician, including obesity, are deductible as medical expenses, the Tax Court has issued opinions against taxpayers seeking to deduct amounts paid for participation in a weight-loss program, even when a doctor prescribed participation in the weight-loss program as treatment for specific diseases. The Tax Court has based these opinions on its determination, after examining the facts and circumstances of the taxpayer's case, that weight-loss and exercise alternatives to the taxpayer's weight-loss program existed. The Tax Court has stated: "Not every expenditure prescribed by a physician is to be catalogued under this term, nor is every expense that may be incurred for the physical comfort of a party a medical expense."

Since, the IRS now recognizes obesity as a disease, health club membership fees which have been incurred primarily for the purpose of preventing or alleviating obesity may be deductible as a medical expense under § 213. Following the Tax Court, however, we will consider additional facts and circumstances, such as the location of the health club, whether an alternative health club is available closer to the taxpayer's home, the types of activities available, the services included in the health club membership fee, and whether the taxpayer would be able to safely fulfill his or her exercise need without having to join a health club.

If we can assist you further, please contact [REDACTED] of the Income Tax and Accounting Division at (202) 622-5020.

Sincerely yours,

PAUL M. RITENOUR
Chief, Branch 1
Office of Associate Chief Counsel
(Income Tax & Accounting)

[REDACTED]